

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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**OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD**

**BOARD STAFF'S REVIEW OF  
PETITION FILE NO. 530**

Petitioner: Robert Jungers,  
Union Safety Representative/Certified Miners Representative

Submitted by: George Hauptman

Title: Senior Engineer-Standards

Date: 11/7/12

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Staff Review of Petition No. 530 submitted by  
Robert Jungers,  
Union Safety Representative/Certified Miners Representative

Petition for Amendments to the General Industry Safety Orders,  
Section 3314, Regarding the Control of Hazardous Energy

INTRODUCTION

On July 16, 2012, the Occupational Safety and Health Standards Board received a petition from Mr. Robert Jungers, Union Safety Representative/Certified Miners Representative employed at the Borax Mine located in Boron, California. The Petitioner is requesting that amendments be made to Title 8, General Industry Safety Orders (GISO) Section 3314 regarding the requirements for hazardous energy control procedures, including machinery and equipment lockout/tagout (LOTO), to include a provision specifying that supervisors must verify that LOTO procedures have been implemented prior to employees performing work in areas where LOTO is in effect.

Labor Code Section 142.2 permits interested persons to propose new or revised regulations concerning occupational safety and health and requires the Board to consider such proposals and to render its decision no later than six months following their receipt.

REASON FOR THE PETITION

The Petitioner states that he has worked at the Borax mine for 27 years. For 26 of those years he has worked in a primary processing area. He states that LOTO procedures have changed significantly since he was hired and feels the changes have not maintained a satisfactory level of plant safety. He notes that he has been involved with his company trying to change LOTO procedures for over a decade. He feels a tragedy associated with LOTO could result unless changes to regulate current policies are made.

The Petitioner indicates he has written letters to his company and has contacted the Mine Safety and Health Administration (MSHA)<sup>1</sup> as well as the National Labor Relations Board regarding LOTO concerns. The Petitioner notes that problems started when LOTO policies went from each employee hanging their own lock to a system that uses a lock box and computer generated

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<sup>1</sup> The U.S. Department of Labor, Mine Safety and Health Administration (MSHA) is the federal agency that ensures compliance with health and safety standards related to the operation of Mines.

isolations.<sup>2</sup> The Petitioner asserts that isolations are incorrect most of the time and that supervisors do not have to verify LOTO isolations are correct. He notes that the work to be isolated is not understood which results in employees going to work on an energized system that should have LOTO procedures in place. The Petitioner states that these concerns could be avoided if isolations are verified prior to the work being performed.

The Petitioner requests an amendment of Section 3314 that would require a supervisor to verify that LOTO is effectively assigned and implemented prior to employees working on affected equipment or systems.

### FEDERAL OSHA STANDARDS

Federal OSHA provisions for LOTO applicable to general industry operations are provided in 29 CFR 1910.147 “The control of hazardous energy (lockout/tagout).” However, federal health and safety standards for mine operations, including LOTO requirements, are enforced by MSHA. MSHA standards related to LOTO procedures are provided in 30 CFR - Code of Federal Regulations – Title 30: Mineral Resources.

The Borax mine is a surface mine, and federal provisions for LOTO are primarily provided in 30 CFR, Part 56, Sections 56.12016, 56.12017, and 56.14105. These provisions address LOTO for work on electrically-powered equipment, work on power circuits, and procedures during repairs or maintenance. MSHA provisions require that work on electrically powered equipment be de-energized before mechanical work is performed on such equipment. The employer is responsible for ensuring that LOTO procedures are implemented and followed. Suitable warning notices must be posted, and locks or other preventative devices are to be removed only by the persons who installed them or by authorized personnel. Repairs or maintenance of machinery and equipment must be performed only after the power is off, and the machinery or equipment blocked against hazardous motion.

The federal Mine Act requires that MSHA inspect each surface mine at least 2 times per year to determine if there is compliance with health and safety standards. There is concurrent jurisdiction between MSHA and state plan states having their own OSHA standards. In other words, the Borax mine is subject to inspection by both MSHA for compliance with 30 CFR and California’s Division of Occupational Safety and Health (Division) for compliance with Title 8, California Code of Regulations (mining and tunneling standards).

### STAFF EVALUATION

The requirements for LOTO procedures in mine operations are provided in Section 3314. If employees are working on energized systems that should be subject to LOTO procedures, the employer is in violation of existing requirements in Section 3314. Section 3314 requires that the

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<sup>2</sup> “Isolations” are processing/production areas, systems, or machinery and equipment that are required to be de-energized, or stored energy purged/removed/blocked, so that repair, maintenance or servicing of hazardous equipment or systems can be safely achieved.

employer implement procedures to ensure the control of hazardous energy during cleaning, repairing, servicing, setting-up or adjusting of prime movers, machinery and equipment. Section 3314(g) in relevant part, states the following:

- “(g) Hazardous Energy Control Procedures. A hazardous energy control procedure shall be developed and utilized by the employer when employees are engaged in the cleaning, repairing, servicing, setting-up or adjusting of prime movers, machinery and equipment.
- (1) The procedure shall clearly and specifically outline the scope, purpose, authorization, rules, and techniques to be utilized for the control of hazardous energy, and the means to enforce compliance, including but not limited to, the following:
- (A) A statement of the intended use of the procedure;
  - (B) The procedural steps for shutting down, isolating, blocking and securing machines or equipment to control hazardous energy;
  - (C) The procedural steps for the placement, removal and transfer of lockout devices and tagout devices and responsibilities; and,
  - (D) The requirements for testing a machine or equipment, to determine and verify the effectiveness of lockout devices, tagout devices and other hazardous energy control devices.
- (2) The employer's hazardous energy control procedures shall be documented in writing.”

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Additionally, Section 3314(h) requires the employer to conduct periodic inspections at least annually to evaluate the effectiveness of LOTO procedures. Section 3314(j) requires each affected employee to be trained in the hazardous control procedures. Section 3314 is a performance based standard that requires the employer to assign responsibility for effective LOTO procedures to authorized employees or persons that may include supervisory or managerial personnel. Employees concerned about violations of Section 3314 at a mine have recourse by contacting the Division's Mining and Tunneling Unit. Therefore, Board staff does not believe that additional prescriptive amendments are necessary to mandate that supervisors must verify LOTO prior to work being performed.

The employer's hazardous control procedures, required inspections and evaluation of such procedures and training are required for all affected employees. These provisions are intended to prevent situations described by the Petitioner, such as employees working on energized equipment/systems when LOTO procedures are required by the aforementioned standards for the safety of personnel. The regulatory changes urged by the Petitioner are unnecessary.

#### RECOMMENDATION

For the reasons stated above, Board staff recommends that the petition be denied.